

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO, EASTERN DIVISION

United States of America,

Plaintiff,

vs.

Case #2:22CR014(1)

Marco Merino,

Judge Edmund Sargus, Jr.

Defendant.

ATTORNEY SHERMAN'S RESPONSE TO ALLEGATIONS  
OF INEFFECTIVE ASSISTANCE OF COUNSEL

This Memorandum is in Response to the allegations made by Mr. Merino regarding the undersigned's representation of him in the above-captioned case, specifically the claim of ineffective assistance of counsel for not disputing the two-point enhancement for firearm possession during his federal criminal prosecution for Conspiracy to Distribute Drugs.

It is imperative to clarify that the decision to accept the two-point enhancement was a strategic one, made in full agreement with Mr. Merino. This decision was reached after thorough negotiations with the government, aiming to avoid the significantly more severe consequences of a 924(c) charge, which mandates a consecutive sentence for firearm possession in furtherance of a drug trafficking crime.

Mr. Merino explicitly agreed in open court to this approach, as evidenced by:

1. The written Plea Agreement, which clearly outlines the terms, including the two-point enhancement for firearm possession, and signed by him;
2. The Statement of Facts, signed by Mr. Merino, which corroborates his acceptance of these terms; and
3. Mr. Merino's admission in open court, where he acknowledged and agreed to the stipulated facts and plea agreement terms.

The strategy was adopted to serve Mr. Merino's best interests, aiming to mitigate potential sentencing severity. The allegation of Ineffective Assistance overlooks the context and

rationale behind our agreed strategy, as well as Mr. Merino's informed consent in open court to these terms.

Respectfully submitted,

s/Terry K. Sherman, #0002417  
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CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of February, 2024, I electronically filed the following with the Clerk of the Court, using the CM/ECF System, which will send notification of such filing to the following: Peter K. Glenn-Applegate, Assistant U. S. Attorney; Elizabeth Garrity, Assistant U. S. Attorney; Hal Arenstein; and Jeremy Gordon; and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants: n/a.

s/Terry K. Sherman, #0002417  
E-mail: [tkshermanlaw@gmail.com](mailto:tkshermanlaw@gmail.com)